

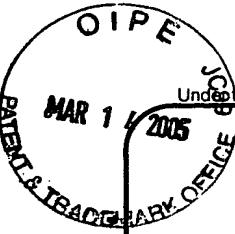
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Total Number of Pages in This Submission

19

Application Number 10/603,572

Filing Date March 14, 2005

First Named Inventor Jason Dean

Group Art Unit 3351

Examiner Name Olga Hernandez

Attorney Docket Number 979-002CIP

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March 14, 2005

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.:	10/603,572	Confirmation No.:	3351
Applicant:	Jason Dean	Filed:	June 25, 2003
Art Unit:	2144	Examiner:	Olga Hernandez
Docket No.:	979-002CIP	Customer No.:	20874
<b>TITLE: PROGRAMMABLE LAWN MOWER</b>			

Mail Stop Amendment  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO OFFICE ACTION**

Applicant submits that the Restriction Requirement contained in the Office Action mailed from the United States Patent and Trademark Office on December 14, 2004 is improper and that claims 21-30 are properly to be considered as pending in the application. If Applicant is correct, Applicant further submits that the Office Action mailed on December 14, 2004 is improper as failing to deal with all the pending claims in the application. If Applicant is correct, Applicant believes that no response on the merits is required to a faulty Office Action, and in such case, the Amendments and Remarks contained herein are unnecessary and the Amendments and Remarks contained herein beginning on page 4 are withdrawn, and are not binding on Applicant. If Applicant is correct, the claims presently pending in the application are those filed with the previous response on the merits to the Office Action mailed on September 30, 2004. Applicant will respond to a proper Office Action when it is issued.

If Applicant is incorrect that the Office Action is improper and a response on the merits is required, please enter the Amendments presented herein, and please consider the Remarks that are presented herein.

Applicant believes that no fees are due on account of the submission of this paper. However, if Applicant is incorrect and fees in a different amount are due, the Director is hereby authorized to charge any additional fees, or to make any refund of an overpayment, to Deposit Account No. 50-0289.

Response to Office Action  
U.S. Serial No. 10/603,572  
Filed: June 25, 2003  
Attorney Docket No: 979-002CIP

**Remarks Regarding the Restriction Requirement**

At the direction of SPE William A. Cuchlinski, Jr., of Group Art Unit 2144, Applicant makes the following statements for the record. Applicant recognizes that this is highly unusual.

Examiner Olga Hernandez issued a Restriction Requirement in the present application, U.S.S.N. 10/603,572, in an Office Action mailed from the United States Patent and Trademark Office on June 29, 2004. She was at that time in Group Art Unit 3661, working under the direction of SPE Thomas G. Black. Applicant responded to the Restriction Requirement on July 27, 2004 by canceling claims 11-20 then pending and adding new claims 21-30, which explicitly depend from pending claim 1. Applicant argued at that time that the Restriction Requirement was inappropriate as the amended claims all depended explicitly from claim 1.

Examiner Hernandez then sent a further Restriction Requirement under 37 CFR 1.111 which was mailed from the United States Patent and Trademark Office on September 30, 2004. Applicant responded to the renewed Restriction Requirement on October 29, 2004. In that response, Applicant argued that the Restriction Requirement was inappropriate because claims 21-30 can not be infringed without infringing claim 1, that the apparatus of claims 21-30 requires the presence of the apparatus of claim 1, and therefore, it is inappropriate to require restriction of the new claims. The arguments presented will not be repeated again here.

On December 14, 2004, Examiner Hernandez, now working in Group Art Unit 2144 under the direction of SPE Cuchlinski, issued the Office Action to which this Response applies. In the Office Action, the Restriction Requirement previously asserted was made final. The undersigned communicated telephonically with SPE Cuchlinski on January 6, 2005 at the suggestion of SPE Black. On January 7, 2005, SPE Cuchlinski telephonically informed the undersigned that SPE Cuchlinski had reviewed the record and was in agreement with the undersigned that the Restriction Requirement was inappropriate, and therefore, a new Office Action would be issued, setting a new period of response, and withdrawing the Restriction Requirement.

Response to Office Action  
U.S. Serial No. 10/603,572  
Filed: June 25, 2003  
Attorney Docket No: 979-002CIP

No new Office Action was received by February 8, 2005. The undersigned again telephonically contacted SPE Cuchlinski to indicate that the response period for the Office Action issued December 14, 2004 was approaching the point where the Applicant would begin to incur fees if no response was submitted. SPE Cuchlinski advised the undersigned to respond to the outstanding Office Action so as to avoid incurring fees for extensions of time, and to include this statement in the response so that the Restriction Requirement issue will not pass without being attended to.

Applicant also wishes to indicate that analogous Restriction Requirement issues exist in a copending application identified by U.S. Serial No. 10/631,462 which is being examined by Examiner Hernandez. Examiner Hernandez has recently withdrawn a similar Restriction Requirement in a copending application identified by U.S. Serial No. 10/401,266.

**Pending Claims** begin on page 4 of this paper.

**Remarks/Arguments on the Merits** begin on page 9 of this paper.